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Commissioner, District 4

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Commissioner, District 5

Katherine Miller
County Manager

Date: July 1, 2015

To: Board of County Commissioners

From: Penny Ellis-Green, Growth Management Director *PEG*

Via: Katherine Miller, County Manager
Gregory S. Shaffer, County Attorney

Re: Request Authorization to Publish Title and General Summary of An Ordinance Entitled "An Ordinance Amending The Land Development Code To Add A New Article XVII, Developments Of Countywide Impact To Regulate Landfills, Junkyards And Sand And Gravel Extraction Of A Certain Scale".

Issue:

On September 16, 2014, the Board approved Ordinance No. 2014-8 imposing a moratorium on certain Developments of Countywide Impact DCIs. That Moratorium expires on September 16, 2015. The DCI's subject to the moratorium consist of: sand and gravel extraction activity requiring blasting, junkyards and landfills. The proposed Ordinance provides regulations for these three DCIs.

Summary:

The proposed Ordinance was presented to the BCC on June 30, 2015.

As the SLDC does not come into effect until the zoning map is adopted, the DCI regulations are being brought forward as a new Article within the existing 1996 Land Development Code in order to meet the timeframe of approval prior to expiration of the moratorium in September 2015.

The County is under contract with Consensus Planning to draft the DCI section of the SLDC. The process began in early February 2015, with stakeholders meetings being held regarding sand and gravel mining and protection of agricultural land and environmentally sensitive land by using Transfer of Development Rights, cluster development and density bonus. In addition and over a two day period, the consultants met with Commissioners and staff for initial meetings.

A second round of meetings was held in April 2015 to discuss conceptual standards and regulations related to sand and gravel mining and protection of agricultural land and environmentally sensitive land. Those meetings were with staff and community stakeholders.

The Consultants will formally release the Draft ordinance to the Board and give a presentation at the Board meeting.

The timeline for adoption of the DCI ordinance is as follows:

- June 30 – Release of Ordinance and presentation to the BCC.
- July 14 – Request to BCC to publish Title and General Summary of the Ordinance.
- July 28 – First Public Hearing.
- August 11 – Second Public Hearing and Adoption of the Ordinance.

In addition staff will be holding meetings in the four Growth management areas in the county as follows:

- Monday, July 6 - Galisteo Community Center
- Tuesday July 7 - Edgewood Fire Station
- Monday July 13 - Nancy Rodriguez Community Center
- Wednesday July 15 - Pojoaque Sixth Grade Academy Building (in front of Frank B. Lopez Gym).

The Ordinance has been available on the County web page since June 30th, it has been emailed out to stakeholders and to all on the community plan email list. The Ordinance has also been available and staff has been taking comments at all community plan open house meetings since June 30th. A press release has been sent out and the area wide meetings, with A link to obtaining the Ordinance, have been advertised in local papers.

Action Requested

Staff requests that the Board grant approval to publish title and general summary of the attached Ordinance to allow the two public hearings to proceed.

Exhibits

Exhibit A – Draft Ordinance

**THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY**

ORDINANCE No. 2015 - ____.

AN ORDINANCE AMENDING THE LAND DEVELOPMENT CODE TO ADD A NEW ARTICLE XVII, DEVELOPMENTS OF COUNTYWIDE IMPACT TO REGULATE LANDFILLS, JUNKYARDS AND SAND AND GRAVEL EXTRACTION OF A CERTAIN SCALE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF SANTA FE THAT THE SANTA FE COUNTY LAND DEVELOPMENT CODE IS HEREBY AMENDED BY ADDING THE FOLLOWING NEW ARTICLE:

ARTICLE XVII DEVELOPMENTS OF COUNTYWIDE IMPACT (DCIs)

Section 1. Purpose.

Developments of Countywide Impact (DCIs) are those that have potential for far reaching effects on the community. DCIs are developments that would place major demands on public facilities, the County's capital improvement plan and budget, and/or have the potential to affect the environment and public health, safety, and welfare beyond the impacts on immediately neighboring properties. DCIs have the potential to create serious adverse noise, light, odor and vibration; explosive hazards; traffic congestion; and burdens on County emergency response services. Therefore, special regulation of DCIs is necessary:

- 1.1. to protect the health, safety and welfare of the citizens, residents, and businesses of the County from the potentially harmful or hazardous impacts of DCIs;
- 1.2. to ensure short and long-term compatibility (both on-site and off-site) of DCIs and the County at large;
- 1.3. to preserve the quality of life, the economy, infrastructure, environment, natural and cultural resources, and natural landscapes; and
- 1.4. to promote sustainability by protecting against the degradation of air, surface water and groundwater, and soils, and to protect environmentally sensitive lands and visual and scenic qualities.

Section 2. Designation.

Due to their potential impact on the County as a whole, the following activities are designated DCIs subject to the requirements of this chapter:

- 2.1. landfills;

2.2. junkyards; and

2.3. sand and gravel extraction pursuant to Section 10.2.1. of this Ordinance.

Section 3. Definitions.

3.1. Junkyard - A place where scrap materials, including automobile bodies and parts, construction debris or metal, are stored or stockpiled for reuse, parts salvage or destruction, and generally, but not always, associated with a junk or scrap business.

3.2. Landfill - A solid waste facility that receives solid waste for disposal as defined in Environmental Improvement Board's (EIB) regulation 20.9.2 New Mexico Administrative Code (NMAC) and as further regulated by regulations of the EIB.

3.3. Sand and Gravel Mining - Mineral extraction activity for construction materials, including but not limited to, stone, sand, basalt, gravel, aggregate, or similar naturally occurring materials.

Section 4. Procedure and Submittals.

4.1. No DCI is permitted by right in the County. Operation of a DCI shall require the establishment of a DCI Overlay Zoning District, issuance of a DCI Conditional Use Permit and issuance of grading and construction permits.

4.2. Applicability of the Sustainable Land Development Code (SLDC). Although not currently effective, any reference in this Ordinance to the SLDC, Ordinance No. 2013-6, shall neither indicate nor suggest the implementation of the SLDC, but shall merely incorporate by reference into this Ordinance the specific language or provision being referenced.

4.3. Application Procedures. An application for a DCI Overlay or for a DCI Conditional Use Permit shall follow the procedures set forth in Chapter 4 of the SLDC for Overlay Zones and Conditional Use Permits.

4.4. Application for a DCI Overlay Zoning District. An applicant who submits an application for approval of a DCI Overlay Zoning District shall submit a concept plan that includes:

4.4.1. An accurate map of the project area including its relationship to surrounding areas, existing topography and key features.

4.4.2. A detailed description of the proposed DCI activities on the entirety of the owner or applicant's property in the same ownership:

4.4.2.1. the planning objectives and the character of the development to be

achieved through the overlay, and the approximate phases in which the DCI activity will occur;

4.4.2.2. the approximate location of all neighboring development areas, subdivisions, residential dwellings, neighborhoods, traditional communities and community centers, and other non-residential facilities and structures within five (5) miles of the concept plan site perimeter;

4.4.2.3. the approximate location, arrangement, size, floor area ratio of any existing and proposed buildings, structures and parking facilities and facilities and activities related to the intended use;

4.4.2.4. the proposed traffic circulation plan, including number of daily and peak hour trips to and from the site and the proposed traffic routes to the nearest intersection with an arterial road or highway;

4.4.2.5. the location of all fire, police, and emergency response service facilities and all roads shown on the capital improvement plan; floodways, floodplains, wetlands or other natural resource areas surrounding the applicant's property; location of historic, cultural and archeological sites and artifacts; steep slopes between 15% and 30% and steep slopes greater than 30%, general wildlife vegetation habitats and habitat corridors within five (5) miles of the concept plan site perimeter;

4.4.2.6. a statement explaining how the proposed overlay complies with the vision, goals, objectives, policies and strategies of the County's Sustainable Growth Management Plan (SGMP) and any Area, District and Community Plan covering the property;

4.4.2.7. a statement or visual presentation of how the overlay will relate to and be compatible with adjacent and neighboring areas, within the five (5) mile radius of the project site perimeter; and

4.4.2.8. all application requirements set out in this Ordinance.

4.4.3. A detailed site plan depicting boundaries, dimensions, acreage, existing and proposed structures, storage, stockpiling, equipment, streets and easements, setbacks and separations and preservation areas.

4.4.4. All Studies, Reports and Assessments (SRAs) required in Chapter 6 of the SLDC. The applicant shall be responsible for the cost of all SRAs as set forth in Section 6.2.2 of the SLDC.

4.4.5. Emergency Response and Preparedness Plan.

4.4.5.1. An application for a DCI Overlay Zoning District shall provide an

emergency preparedness and response plan ("ERP Plan"). The ERP Plan shall include a provision for the applicant to reimburse the appropriate emergency response service providers for costs incurred in connection with an emergency. This plan shall be filed with the County at the time of application for the DCI Overlay District and shall be updated on annual basis or as conditions change. The ERP Plan shall be coordinated with and approved by the emergency management officer prior to beginning field operations.

4.4.5.2. The ERP Plan shall consist of the following information, at a minimum:

1. a cash, certified or bank check, or letter of credit, deposit, to cover all of the County's expenses in reviewing the ERP, engaging consultants, and for a Hearing Officer to conduct the first public hearing on the ERP. The County will provide an estimate of the cost of conducting the study, which shall provide the basis for the initial deposit. The applicant shall make additional deposits if the initial deposit is inadequate to reimburse the County for the costs of the study, and the County shall refund any unexpended funds on deposit after the study is completed;
2. name, address and phone number, including a 24 hour emergency number of at least two persons responsible for emergency field operations;
3. a printed map, including GPS coordinates, showing the name, location, and description of all potentially dangerous facilities. The map shall be prepared digitally on the County geographic information system parcel maps;
4. a written response plan for the potential emergencies that may be associated with the operation of the facilities. This may include any or all of the following: explosions, fires, gas or water pipeline leaks or ruptures, hazardous material vehicle spills or vehicle accidents; and
5. a fire prevention, response, and health and safety plan.

4.4.6. Phasing Schedule. A detailed phasing schedule including timing of each phase, boundaries and description of each proposed phase.

4.4.7. Such other information as the Administrator shall require, including any additional information necessary to determine compliance with the standards for the approval of the DCI Overlay Zoning District.

4.4.8. The applicant shall submit all information at the time of application, required by the County necessary to carry out the above SRAs. In addition to the SRAs to be conducted by the County, listed above, the applicant and any other interested party shall have the opportunity to prepare and furnish to the County its own SRAs, or parts thereof.

4.4.9. Prior to the submission of any application for a DCI Overlay Zoning District, the applicant shall attend a pre-application meeting with all residents, owners/lessees of non-residential structures, within one mile of the perimeter of the project area and with all County groups, Registered Organizations and Community Organizations that have previously registered for notification of applications for DCIs or Overlay Districts. The applicant shall furnish an address list for the one-mile area to the Administrator who shall send out notices to all affected parties at least five business days prior to the meeting. Such meeting shall be conducted at the offices of the County and shall be presided over by a designated County Hearing Officer. The proceedings shall be designed to resolve, to the extent possible, issues and problems between the parties. Such meeting shall not last longer than three (3) hours without the consent of the applicant, and the Hearing Officer shall have the authority to request invitees to consolidate presentations and otherwise cooperate so that effective and cordial discussion of issues and problems takes place.

4.4.10. A report demonstrating consistency of the project with the SGMP, Area, District or Community Plans and any federal, state and local regulations.

4.5. Application for a DCI Conditional Use Permit. An application for a DCI Conditional Use Permit shall include:

4.5.1. Final Order from the Board granting approval of the DCI Overlay Zoning District;

4.5.2. the Conditional Use Permit shall only be submitted for a single phase;

4.5.3. all required state and federal permits approved in conjunction with the proposed DCI;

4.5.4. a cost estimate prepared and sealed by a New Mexico professional engineer for all site improvements and reclamation, if appropriate;

4.5.5. a detailed development plan, meeting the submittal requirements of Article V, Section 7.1.2. of this Code; and

4.5.6. all final SRAs, complying with any comments and conditions imposed through the DCI Overlay Zoning District approval.

4.6. Revocation of a DCI Conditional Use Permit.

4.6.1. A DCI Conditional Use Permit is subject to revocation by the Land Use Administrator for the following reasons:

4.6.1.1. any conduct that constitutes a failure to comply with performance standards or conditions imposed by the Conditional Use Permit;

4.6.1.2. engaging in the activities allowed by the Conditional Use Permit that are outside of the geographic boundaries of the Permit;

4.6.1.3. the revocation or suspension of any federal or state permit required as a condition of approval of the Conditional Use Permit; or

4.6.1.4. any other conduct that damages or commits waste to private or public property that is not within the scope of Conditional Use Permit.

4.6.2. The Land Use Administrator shall serve a written Notice of Violation to the Holder of the DCI Conditional Use Permit either by certified mail at the address provided in the application or by personal delivery to the Holder, either at the Holder's address or at the worksite of the Permit. The Notice of Violation shall provide the following:

4.6.2.1. a statement of the nature of the violation with reference to this Ordinance or the terms of the DCI Conditional Use Permit;

4.6.2.2. a brief description and location of the violation; and

4.6.2.3. a statement that failure to remove and correct the violation, or to cease and desist from further acts of the violation within fifteen (15) days of receipt of Notice of Violation may result in revocation of the DCI Conditional Use Permit.

4.6.3. If the Holder fails or refuses to correct or to cease and desist from further acts of the violation within the fifteen (15) days afforded or to the satisfaction of the Land Use Administrator, or if the Holder disagrees with issuance of the Notice of Violation and so informs the Land Use Administrator in writing:

4.6.3.1. the matter shall be referred for a hearing before a Hearing Officer as soon as is practicable but in no event longer than thirty (30) days after referral;

4.6.3.2. during the hearing, it shall be the burden of the Land Use Administrator to demonstrate by a preponderance of the evidence that a violation of the DCI Conditional Use Permit has occurred as set forth in Subsection 4.6.1 above;

4.6.3.3. the Holder may then provide a defense by calling witnesses or

submitting evidence disputing the evidence of the Land Use Administrator;

4.6.3.4. within five (5) working days of the hearing, the Hearing Officer shall make written findings of fact and rulings of law and recommend to the Board to either revoke or not revoke the DCI Conditional Use Permit;

4.6.3.5. the matter shall be referred to the Board for a hearing as soon as practicable, and after hearing, the Board may:

1. affirm the recommendation of the Hearing Officer to either revoke or not revoke the DCI Conditional Use Permit; or
2. issue a decision to not revoke the DCI Conditional Use Permit but impose additional conditions related to curing the effects of the violation and preventing future violations.

4.6.4. Any person aggrieved by a final decision of the Board pursuant to this section may appeal to District Court in accordance with NMSA 1978, § 39-3-1.1 (as amended) and Rule 1-074 NMRA.

4.6.5. If the Holder of the DCI Conditional Use Permit fails or refuses to comply with an order of the Board after its issuance, the Land Use Administrator may seek a court order enjoining further operation by the Holder and may invoke other remedies available pursuant to NMSA 1978, §§ 3.17.1, 3.18.17 and 3.21.1 (as amended).

Section 5. Review Criteria.

5.1. Each application for approval of a DCI Overlay Zoning District shall be reviewed by the CDRC, Hearing Officer and Board of County Commissioners:

5.1.1. for consistency with the SGMP and any applicable Area, District and Community Plan;

5.1.2. to ensure that environmental effects and impacts identified in the Environmental Impact Report (EIR) are avoided or appropriately mitigated;

5.1.3. that adequate public facilities either exist or can be promptly funded as identified in the adequate public facilities assessment;

5.1.4. that improvements identified in the adequate public facilities assessment can be provided as set forth in the capital improvements plan or provided by the applicant and when such facilities will be available;

5.1.5. that water is available for the various phases of the proposed DCI as set

forth in the Water Service Availability Report;

5.1.6. the impacts of traffic generated as a result of the activities taking place in the proposed DCI Overlay Zoning District can be mitigated;

5.1.7. to determine whether the proposed location is compatible with adjoining uses given the size, design and operational characteristics of the proposed DCI, and whether the DCI facilities can be made compatible with the surrounding area by using reasonable efforts to mitigate any public nuisance or land use effects or impacts of the DCI operation. Factors to be considered include impacts to property values, public safety, impacts on cultural, historic and archaeological resources, emergency services response, wildlife and vegetation resources, noise, impacts on roads and highways, vibration, odor, glare, fire protection, access, visual impacts and impacts upon air and water quality and quantity, the past performance of the operator's past compliance (or lack thereof), with federal, state and local laws pertaining to the DCI; and

5.1.8. to determine whether the proposed DCI will be detrimental to the safety, health, prosperity, order, comfort and convenience of the County pursuant to NMSA 1978 § 4-37-1.

5.2. Each application for approval of a DCI Conditional Use Permit shall be reviewed by the Hearing officer and the CDRC:

5.2.1. for consistency with the Sustainable Growth Management Plan and any applicable Area, District and Community Plan;

5.2.2. for consistency with the DCI Overlay Zoning District approval; and

5.2.3. the past performance of the operator's past compliance (or lack thereof) with federal, state and local laws pertaining to the DCI during the development of previous phases of the DCI.

Section 6. Findings.

The Board of County Commissioners hereby finds, declares and determines that this Ordinance:

6.1. promotes the health, safety, and welfare of the County, its residents, and its environment by regulating adverse public nuisance and/or land use impacts and effects resulting from DCIs;

6.2. promotes the purposes of planning and land use regulation by assuring that adequate public facilities and services as defined by this Ordinance including roads, fire, police, stormwater detention and emergency and response services will be available at the time of approval of DCI projects;

- 6.3. prevents the occurrence of adverse public nuisance and/or land use effects and impacts resulting from the abandonment of DCI activities within the County;
- 6.4. protects the County's priceless, unique, and fragile ecosystem, the preservation of which is of significant value to the citizens of the County and state;
- 6.5. protects the County's unique and irreplaceable historic, cultural, archaeological, and eco-tourist sites and scenic vistas, in addition to water and other natural resources;
- 6.6. ensures the health, safety, and welfare of the County and its residents, and protects the natural and ecological resources of Santa Fe County as follows:

6.6.1. New Mexico has an interest in strengthening protection to historic, archaeological and cultural resources by issuing new rules and new statutes, if necessary, to put into place greater, and in some cases absolute protection, for highly sensitive and significant historical, cultural and archaeological sites and landscapes;

6.6.2. under the Wildlife Conservation Act (NMSA 17-2-37 through 17-2-46), species of wildlife indigenous to the state that may be found to be threatened or endangered by DCIs require such police power regulation over DCIs so as to maintain and, to the extent possible, enhance wildlife population within the carrying capacity of the habitat;

6.6.3. because DCIs may presently or in the future potentially cause irreparable harm to the County's water supply and pollution of water and air, may cause cancer, lung disease, and respiratory diseases, various DCIs must show documentation of community health effects, and these effects must be scrutinized, and thoroughly mitigated before DCI activities occur;

6.6.4. pursuant to the New Mexico Public Health Act, NMSA 24-1-1 (1978), the Department of Health has the authority to "investigate, control, and abate the causes of disease... sources of mortality and other conditions of public health." Environmental hazards resulting from DCI projects may potentially cause adverse health effects;

6.6.5. air, soil, and water contamination may occur during different stages of DCI operations, and such contamination could affect human health;

6.6.6. all New Mexicans have an equal right to live in a safe and healthy environment, and implementation of precautionary principles promotes this premise as well as reduces potential effects on public health resulting from exposure to environmental toxins;

6.6.7. persons and/or organizations, in response to proposed technological innovations, have a duty to take anticipatory action to prevent harm, an

obligation to examine alternatives, and the right to stop the implementation of technological innovations in an open democratic process;

6.6.8. the burden of proof of harmlessness for any proposed technological innovation must lie with the proponent of the innovation, not the general public;

6.6.9. DCIs could have a negative effect on tourism, landscapes and communities; and

6.6.10. recognizes that the County of Santa Fe has supplemental authority, in addition to the authority of the state to regulate adverse public nuisance, land use and environmental impacts and effects consistent with state legislation and regulation, stemming from DCI projects in the Galisteo Basin and unincorporated areas of the County and makes no finding that the state has preempted or occupied DCI regulation.

6.7. acknowledges that the Galisteo Basin has been recognized by the United States Congress as a nationally significantly archaeological resource and contains within it a number of areas protected under the auspices of the Galisteo Archaeological Sites Protection Act, Public Law 108-208 (2004), and finds additionally that:

6.7.1. DCIs in the Galisteo Basin will have significant impact on archaeological, historical, cultural and environmental resources and sensitive areas;

6.7.2. water resources in the Galisteo Basin are at risk as DCIs in the Galisteo Basin may negatively diminish or pollute local water supplies and sources of groundwater;

6.7.3. due to the importance of the hydrology of the Galisteo Basin, not only to the citizens of Santa Fe County but to the interstate stream system through its contributions to the Rio Grande, it is extremely important to protect the quantity and quality of the surface and ground water resources in the Galisteo Basin;

6.7.4. the Galisteo Basin is home to a variety of native plant and animal species whose arid habitats will be impacted negatively by DCIs. In addition terrestrial wildlife, aquatic and riparian species and habitats such as those found around the springs, wetlands, and drainages in the Galisteo Basin must be protected;

6.7.5. clean air and water are essential to most resources and activities in the Galisteo Basin and will be degraded by DCI activity; and

6.7.6. sensitive environmental systems and cultural, archaeological and historic sites in the Galisteo Basin require permanent protection from DCI projects.

Section 7. General Regulations for all DCIs.

7.1. Identification, Mapping, and Analysis of Potential Impacts. The Environmental Impact Report (EIR) shall identify whether potential impacts would occur, where a “Yes” is indicated in the column for the proposed use, with respect to the category of potential impacts indicated in the row. The EIR shall include a description and maps of relevant information related to these impacts both on- and off-site, and identify whether factors related to these impacts exist on the property or would be affected either on- or off-site by the proposed use and development of the property, and describe whether and how potential adverse impacts will be avoided or mitigated. The categories of potential impacts that are listed in Table 17-1 below, shall be construed to be part of the environmental setting, environmental effects, and avoidance or mitigation of impacts and effects.

Table 17-1 Categories of Impacts to be Identified, Mapped and Addressed.

CATEGORY OF POTENTIAL IMPACTS TO IDENTIFY, MAP, AND ADDRESS	SAND AND GRAVEL EXTRACTION	LANDFILLS	JUNKYARDS
Federal and State endangered and threatened species and species of concern impacts	Yes	Yes	Yes
Connectivity and protection of significant wildlife habitat areas	Yes	Yes	Yes
Stormwater runoff rates, surface water flows and levels	Yes	Yes	Yes
Surface water contamination, and degradation generally	Yes	Yes	Yes
Wetland and riparian area viability	Yes	Yes	Yes
Groundwater levels and availability, potential groundwater depletion	Yes	Yes	Yes
Groundwater contamination, and degradation generally	Yes	Yes	Yes
Water well contamination potential	Yes	Yes	Yes
Erosion, siltation, and dust potential	Yes	Yes	Yes
Soils bearing strength and stability for development	No	Yes	No
Wildfire hazard	No	No	Yes
Earthquake and landslide hazards	No	Yes	No
Flooding hazards and floodwater contamination	Yes	Yes	Yes

Archaeological and historic resource protection	Yes	Yes	Yes
Impacts to landscape scenic quality	Yes	Yes	Yes
Impacts to conservation and open space areas, scenic roads, and recreation trails, including visual impacts and noise	Yes	Yes	Yes
Viability of agricultural crop lands and improved pasture lands	Yes	Yes	No
Nuisance, hazard, traffic, character, and visual impacts to residential uses	Yes	Yes	Yes
Nuisance, hazard, and visual impacts to commercial and public or institutional uses	Yes	Yes	Yes
Adequacy of roads for intended use	Yes	Yes	Yes
Water system availability and capacity, if water supply from a central system is proposed	No	No	No
Fire protection and emergency medical service availability and response times	Yes	Yes	Yes

Section 8. Regulations for Landfills.

8.1. Purpose; Intent. The purpose of this Section is to establish operational, location, and general standards for landfills and associated activities that are designed to establish reasonable limitations, safeguards, and mitigate negative impacts on the surrounding properties.

8.2. Applicability.

This Section 8 applies to the place of business or establishment which is maintained, operated or used for disposal of solid waste located within Santa Fe County.

8.3. Operational Standards and Requirements.

8.3.1 Operating Permit. A Solid Waste permit shall be obtained from the New Mexico Environmental Improvement Board per Title 20, Chapter 9, Part 3 of the New Mexico Statutes. The permit shall be submitted prior to obtaining a Conditional Use Permit.

8.3.2. Access. Adequate and available access is required per Section 7.4 (Access and Easements) of the SLDC.

8.3.3. Visual Screening Measures. Visual screening is required per Section 7.6 (Landscaping and Buffering) of the SLDC plus the following standards.

8.3.3.1 General. The view from all public roads, rivers, and adjoining

residential areas shall be screened.

8.3.3.2. Buildings. All buildings' design, scale, and location shall reduce the visibility from off site.

8.3.3.3. Surrounding Vegetation. Any vegetation on site that can act as screening of the extraction area shall be preserved.

8.3.4. Lighting. All Landfills must comply with Section 7.8 (Lighting) of the SLDC.

8.3.5. Signs. All development must comply with Section 7.9 Signs of the SLDC.

8.3.6. Parking and Loading. All landfills must meet the parking and loading requirements in Section 7.10 (Parking and Loading) of the SLDC.

8.3.7. Hazardous Materials. Any fuel, explosives, or other hazardous materials stored on the site shall be contained within an impoundment structure. The impoundment structure shall be set back a minimum of 300 feet from any property boundary.

8.3.8. Protection of Historic and Archaeological Resources. Any landfill development shall submit an archaeology report conforming to the requirements of Section 7.16 (Protection of Historic and Archaeological Resources) of the SLDC.

8.3.9. Terrain Management. Requirements of Section 7.17 (Terrain Management) of the SLDC shall be met.

8.3.9.1. Grading and Erosion Control. In addition to the Terrain Management requirements of the SLDC, drainage and erosion control shall comply with the following:

- 1. Removal of Organic Materials.** Fill areas shall be properly prepared by removing organic materials, such as vegetation and rubbish, and any other material which is detrimental to the proper compaction of the site or not otherwise conducive to the stability of the site.

- 2. Site Vegetation Removal and Revegetation.** The removal of existing vegetation shall not occur more than 30 days prior to the commencement of grading, and permanent revegetation shall be commenced as soon as practical after the completion of grading. Site specific native seed mixtures shall be used to revegetate all disturbed areas with the exception of landscaped areas if any. Mulching shall be used in order to assure vegetation growth.

3. Topsoil, Stripping, Stockpiling, and Redistribution. The existing topsoil shall be stripped and stockpiled on site for redistribution over the completed final grade.

4. Cut and Fill Slopes. Cut and fill slopes shall be graded to a slope no steeper than 2:1, or 50%, to allow for permanent revegetation or landscaping unless a retaining wall is used or a steeper slope is approved by the County. The County may require the submission of a detailed engineering report and analysis prepared by a professional engineer or landscape architect relative to the safety of such cuts and fills, if necessary considering soil type, soil stability, and any proposed structures.

8.3.9.2. Sediment and erosion control. Practices for sediment and erosion control shall be designed, constructed and maintained to prevent additional contribution of sediment to streams, lakes, ponds, or any land outside the permit area. Where applicable, sediment and erosion control measures to prevent degradation of the environment shall consist of the utilization of proper reclamation methods and sediment control practices including, but not limited to:

1. grading the back-fill material to reduce the rate and volume of run-off;
2. retaining sediment within the pit and disturbed area; and,
3. establishing temporary vegetation, mulch, or other soil stabilization application on areas that will remain subject to erosion for a period of 6 months.

8.3.10. Air Quality and Noise.

8.3.10.1. The requirements of Section 7.21 (Air Quality and Noise) of the SLDC shall be met.

8.3.10.2. Noise Study. A noise study showing the projected noise from the specific equipment to be used is required to be submitted with the application.

8.3.11. Setbacks.

8.3.11.1. The refuse and salvage material shall be at least 300 feet from all property lines and 500 feet from all public road rights-of-way, public recreational easements, and environmentally sensitive lands.

8.3.11.2. The site shall be located at least one-quarter mile from any existing dwelling or land subdivided for residential development.

8.3.11.3. Vegetation within the setbacks from the property boundary shall be preserved and supplemented, as necessary, for mitigation of negative impacts. Existing native vegetation on the entire operation site shall be preserved to the maximum extent possible

8.3.12. Protection From Trespassing. The proposed use shall be fenced in accordance with the standards in Section 7.7. (Fences and walls) of the SLDC for health and safety protection.

8.3.13. Analysis of Landfills in the County. An analysis of the existing capacity, the remaining life, and the need for a new major solid waste disposal site shall be submitted with the application.

Section 9. Regulations for Junkyards.

9.1. Purpose; Intent. The purpose of this Section is to establish operational, location, and general standards for junkyards and associated activities that are designed to establish reasonable limitations, safeguards, and mitigate negative impacts on the surrounding properties.

9.2. Applicability. This Section 9 applies to the place of business or establishment which is maintained, operated or used for storing, keeping, buying or selling junk or scrap, or for the maintenance or operation of a motor vehicle graveyard located within Santa Fe County.

9.3. Operational Standards and Requirements.

9.3.1. Access. Adequate and available access is required per Section 7.4 (Access and Easements) of the SLDC.

9.3.2. Visual Screening Measures. Visual screening is required per Section 7.6 (Landscaping and Buffering) of the SLDC plus the following standards:

9.3.2.1. General. The view from all public roads, rivers, and adjoining residential areas shall be screened.

9.3.2.2. Buildings. All buildings' design, scale, and location shall reduce the visibility from off site.

9.3.2.3. Surrounding Vegetation. Any vegetation on site that can act as screening of the extraction area shall be preserved.

9.3.3. Lighting. All junkyard developments must comply with Section 7.8

(Lighting) of the SLDC.

9.3.4. Signs. All junkyard development must comply with Section 7.9 (Signs) of the SLDC.

9.3.5. Parking and Loading. All junkyards must comply with Section 7.10 (Parking and Loading) of the SLDC.

9.3.6. Hazardous Materials. Any fuel, explosives, or other hazardous materials stored on the site shall be contained within an impoundment structure.

9.3.7. Protection of Historic and Archaeological Resources. Any application for a junkyard development shall submit an archaeological report conforming to the requirements of Section 7.16 (Protection of Historic and Archaeological Resources) of the SLDC.

9.3.8. Terrain Management. Requirements of Section 7.17 (Terrain Management) of the SLDC shall be met.

9.3.9. Air Quality and Noise.

9.3.9.1. The requirements of Section 7.21 (Air Quality and Noise) of the SLDC shall be met.

9.3.9.2. Noise Study. A noise study showing the projected noise from the specific equipment to be used is required to be submitted with the application.

9.3.10. Setbacks.

9.3.10.1. The refuse and salvage material shall be at least 300 feet from all property lines and 500 feet from all public road rights-of-way, public recreational easements, and environmentally sensitive lands.

9.3.10.2. Vegetation within the setbacks from the property boundary shall be preserved and supplemented, as necessary, for mitigation of negative impacts. Existing native vegetation on the entire operation site shall be preserved to the maximum extent possible

9.3.11. Protection From Trespassing. The proposed use shall be fenced in accordance with the standards in Section 7.7. (Fences and walls) of the SLDC for health and safety protection.

Section 10. Regulations for Sand and Gravel Extraction.

10.1. Purpose; Intent. The purpose of this Section 10 is to establish operational, location, reclamation and general standards for gravel processors and associated extraction activities that are designed to establish reasonable limitations, safeguards,

mitigate negative impacts on the surrounding properties, and provide controls for the conservation of natural resources and rehabilitation of land.

10.2. Applicability.

10.2.1. This Section 10 applies to the extraction and processing of any sand and gravel extraction operation that affect 10 acres or more of land and extract more than 20,000 tons of earth materials, or which utilize blasting. Small, incremental increases of an approved extraction operation by the same owner or operator that effectively avoid the application and approval requirements of this ordinance are prohibited. No applicant, operator or owner who has been granted an approval to operate a sand and gravel extraction operation of less than 10 acres of land or less than 20,000 tons of earth material shall be granted approval to operate an expanded or similar extraction operation on the same or contiguous property where the total of any additional operation increases the extraction operation to one in excess of 10 acres of land or to one in excess of 20,000 tons of earth material. Instead, any such additional operation shall require application and processing under this Ordinance.

10.2.2. Sand and gravel extraction and processing includes any rock quarrying or gravel removal, stockpiling, or processing. Any screening, crushing, gravel recycling, washing, or stockpiling of aggregate, in concert or by itself, constitutes gravel processing.

10.2.3. This Section 10 does not apply to:

10.2.3.1. Decorative building materials naturally exposed at the surface of the earth.

10.2.3.2. Basements and footings of a building, or retaining walls .

10.2.3.3. Sand and gravel operations that are less than 10 acres in size and extract less than 20,000 tons of earth materials and which does not utilize blasting, this is regulated by Article XI of the Land Development Code.

10.2.3.4. Mineral Exploration and Extraction regulated by Article III, Section 5 of this Ordinance.

10.3. Operational Standards and Requirements.

10.3.1. State and Federal Permits. All sand and gravel extraction operations shall submit all required state permits, FEMA and or Army Corps of Engineers permits with the Conditional Use Permit.

10.3.2. Hours of Operation. Hours of operation are limited to the period between sunrise or 7:00 a.m. whichever is latest, and sunset or 6:00 p.m., whichever is earliest, Monday through Saturday.

10.3.3. Water Services Availability. A Water Service Availability Report shall be submitted with the application per Section 6.5 (Water Service Availability Report) of the SLDC.

10.3.3.1. No sand and gravel operation may use potable water from a community water system.

10.3.3.2. Extraction and filling of a reservoir shall not infringe on downstream appropriator's water rights.

10.3.4. Project Traffic Impacts and Road Standards.

10.3.4.1. All roads carrying sand and gravel related traffic shall conform to the requirements of Section 7.11 (Road Design Standards) of the SLDC.

10.3.4.2. Transportation Facility Improvements. An analysis of all roads accessing the site shall be submitted to the County with detailed information concerning the ability of the roads to adequately support the projected traffic, including potential weight of vehicles for 20 years, or the life of the sand and gravel extraction operation. Cost of all required improvements, on and off-site, shall be borne entirely by the applicant.

10.3.4.3. The Board of County Commissioners may establish a maximum size and number of truck trips allowed to enter and exit a processing location where needed to:

1. avoid a reduction in the level of service for all access roads and roads within the study area as provided in the Traffic Impact Analysis (TIA) the time of application;
2. to avoid the deterioration of all access roads; and
3. to otherwise comply with Section 6.6 of the SLDC.

10.3.4.4. Traffic Counts. Traffic counts at the entrance of the operation shall be presented at the annual review of the operation's permit.

10.3.4.5. Designation of Construction and Haul Routes. Truck haul and traffic routes shall avoid residential areas, commercial areas, environmentally and visually sensitive areas, schools and other civic buildings, municipalities, and already congested locations where possible. Alternative routes shall also be identified.

1. Timing of truck traffic may be limited by the BCC.

2. Applicant shall submit a fugitive dust plan, and prevent loss of loads and fugitive dust.

10.3.5. Project description. The applicant shall provide a detailed statement describing the project including:

10.3.5.1. The amount and type of materials to be excavated;

10.3.5.2. Duration of the excavation activity and reclamation activity;

10.3.5.3. The proposed method of excavation;

10.3.5.4. The amount of fill to remain on site; and

10.3.5.5. A statement from a New Mexico professional engineer indicating the type of soil to be excavated and their suitability for road and structural fill construction.

10.3.6. Access. Adequate and available access is required per Section 7.4 (Access and Easements) of the SLDC.

10.3.7. Visual Screening Measures. Visual screening is required per Section 7.6 Landscaping and Buffering of the SLDC plus the following standards.

10.3.7.1. **General.** The view from all public roads, rivers, and adjoining residential areas shall be screened.

10.3.7.2. **Buildings.** All buildings' design, scale, and location shall reduce the visibility from off site.

10.3.7.3. **Surrounding Vegetation.** Any vegetation on site that can act as screening of the extraction area shall be preserved.

10.3.7.4. For all proposed extraction areas of greater than 10 acres, the extraction shall be designed in phases in order to minimize the visual impact.

10.3.8. Lighting. All Sand and Gravel developments must comply with Section 7.8 (Lighting) of the SLDC.

10.3.9. Signs. All development must comply with Section 7.9 (Signs) of the SLDC, but are limited to one address/identification sign and directional signs of 4 square feet.

10.3.10. Parking and Loading. All Sand and Gravel extraction must comply with Section 7.10 (Parking and Loading) of the SLDC.

10.3.11. Hazardous Materials. Any fuel, explosives, or other hazardous materials stored on the site shall be contained within an impoundment structure.

10.3.12. Wildlife. Protection is required for critical environmental resources including wetlands, riparian areas, and important wildlife habitats.

10.3.12.1. Any modification of the terrain within a floodplain area shall be environmentally sound and will not result in net loss of wildlife habitat.

10.3.12.2. All gravel processing shall be limited to locations and times of year that ensure no significant negative impacts to federally listed endangered species.

10.3.12.3. No sand and gravel development can interrupt a wildlife corridor.

10.3.13. Protection of Historic and Archaeological Resources. Any application for sand and gravel extraction shall submit an archaeological report conforming to the requirements of Section 7.16 (Protection of Historic and Archaeological Resources) of the SLDC.

10.3.14. Terrain Management. Requirements of Section 7.17 (Terrain Management) of the SLDC shall be met.

10.3.14.1. Grading and Erosion/Sediment Control. In addition to the Terrain Management requirements of the SLDC, drainage and erosion control shall comply with the following:

1. Removal of Organic Materials. Fill areas shall be properly prepared by removing organic materials, such as vegetation and rubbish, and any other material which is detrimental to the proper compaction of the site or not otherwise conducive to the stability of the site.

2. Site Vegetation Removal and Revegetation. The removal of existing vegetation shall not occur more than 30 days prior to the commencement of grading, and permanent revegetation shall be commenced as soon as practical after the completion of grading. Site specific native seed mixtures shall be used to revegetate all disturbed areas with the exception of lawn and landscaped areas if any. Mulching shall be used in order to assure vegetation growth.

3. Topsoil, Stripping, Stockpiling, and Redistribution. The existing topsoil shall be stripped and stockpiled on site for redistribution over the completed final grade.

4. **Cut and Fill Slopes.** Cut and fill slopes shall be graded to a slope no steeper than 2:1, or 50%, to allow for permanent revegetation or landscaping unless a retaining wall is used or a steeper slope is approved by the County. The County may require the submission of a detailed engineering report and analysis prepared by a professional engineer or landscape architect relative to the safety of such cuts and fills, if necessary considering soil type, soil stability, and any proposed structures.

10.3.14.2. Sediment and Erosion Control. Practices for sediment and erosion control shall be designed, constructed and maintained to prevent additional contribution of sediment to streams, lakes, ponds, or any land outside the permit area. Where applicable, sediment and erosion control measures to prevent degradation of the environment shall consist of the utilization of proper reclamation methods and sediment control practices including, but not limited to:

1. grading the back-fill material to reduce the rate and volume of run-off;
2. retaining sediment within the pit and disturbed area; and,
3. establishing temporary vegetation or mulch on areas that will remain subject to erosion for a period of 6 months.

10.3.15. Air Quality and Noise.

10.3.15.1. The requirements of Section 7.21 (Air Quality and Noise) of the SLDC shall be met, however only a preliminary air quality report is required for submittal with the application. Once approved, a final air quality permit is required prior to commencement of any activity on the site.

10.3.15.2. Noise Study. A noise study showing the projected noise from the specific equipment to be used is required to be submitted with the application.

10.3.15.3. Fugitive Dust Control Permit. A Fugitive Dust Control Plan shall be prepared in compliance with the Fugitive Dust Regulation 20.11.20 NMAC.

10.3.16. Blasting Plan. A blasting plan shall be submitted with the application and for any future blasting after the initial blast.

10.3.16.1. The plan shall be created by a qualified blasting firm who is

knowledgeable with State of New Mexico requirements and National Fire Protection Association (NFPA) 495.

10.3.16.2. Blasting may only be conducted during the hours of operation in Section 10.3.2. above.

10.3.16.3. The blasting plan shall identify the maximum number of holes to be shot each occurrence, the type of explosive agent, maximum pounds per delay, method of packing, type of initiation device to be used for each hole, blasting schedule and establish noise and vibration standards.

10.3.17. Monitoring Report. The applicant shall monitor all blasting and record all noise and vibration levels. The report shall be submitted to the Land Use Administrator within five (5) working days of blasting.

10.3.18. Setbacks.

10.3.18.1. 500 feet from all property lines.

10.3.18.2. 500 feet from all public road rights-of-way, public recreational easements, and environmentally sensitive lands.

10.3.18.3. One quarter mile from residential structures.

10.3.18.4. Vegetation within the setbacks from the property boundary shall be preserved and supplemented, as necessary, for mitigation of negative impacts. Existing native vegetation on the entire operation site shall be preserved to the maximum extent possible

10.3.19. Protection From Trespassing. The proposed use shall be fenced in accordance with the standards in Section 7.7. (Fences and walls) of the SLDC for health and safety protection.

10.3.20. Height. Any equipment used for sand and gravel extraction must meet the height standards for the zoning district in which it is located. Height shall be measured from existing grade prior to commencement of any grading activity on the site, and shall also conform to the height measurement requirements of Section 7.17.9.3 of the SLDC.

10.3.21. Activities in or Near Water Bodies.

10.3.21.1. Prior to Approval of Reclamation Study. In no case shall a location and time of excavation be approved that may have negative impacts on any state or federally designated endangered or threatened species, or critical habitat.

10.3.21.2. Uncontrolled/Natural Watercourses. When working near uncontrolled, or naturally flowing, watercourses, the proposed operation shall be conducted in a manner that improves fisheries and waterfowl habitat.

10.3.21.3. Minimum Buffer. A minimum 100 foot buffer of natural vegetation between the water's edge and any plant site is required.

10.3.21.4. No Negative Impact. No extraction is permitted that is deemed by the County to have a negative impact on the water body.

10.3.22. Phasing. All phases shall be clearly staked prior to commencement of any activity on the property. The applicant must GPS all stakes.

10.3.22.1. Only one phase of the development shall be excavated at a time.

10.3.23. Reclamation Plan and Bond. A reclamation plan shall be provided that is designed and certified by a New Mexico registered engineer or landscape architect, and meets the reclamation standards specified below in Section 10.3.24. The plan shall restrict extraction operations to areas of workable size so that no area is left inactive and unreclaimed for more than 60 days, unless approved by the DCI Permit. The plan shall specify any phasing of reclamation and estimate the cost of the entire reclamation project. A bond shall be posted to implement the reclamation plan at 125% of expected cost of the reclamation. The bond amount shall be reviewed annually, as part of the annual review of the DCI Permit, for the purpose of up-dating the bond amount in accordance with any changing costs of reclamation. The reclamation plan does not replace a landscape plan that may be required for any subsequent development of the gravel processing and extraction site.

10.3.24. Reclamation Standards. The reclamation plan shall comply with the following standards:

10.3.24.1. General. Reclamation shall restore land areas to a condition suitable for new land uses. Wildlife habitat shall be restored in a manner comparable or better, to the habitat conditions that existed prior to the gravel operation. In general, all slopes shall be graded to 3:1 or flatter to promote revegetation.

10.3.24.2. Grading. Disturbed areas shall be re-graded to blend into and conform to the general natural form and contours of the adjacent areas.

10.3.24.3. Revegetation of all disturbed areas is required. The plan shall describe the vegetation prior to any grading of the site and shall demonstrate how the site will be returned to its original, or better vegetated condition.

10.3.23.4. Mining operations shall be allowed to progress so long as the previous phases have been reclaimed within 6 months after the commencement of the new phase. Reclamation shall commence within 30 days of the commencement of a new phase of extraction.

10.3.25. Existing Sand and Gravel Extraction Uses.

Any sand and gravel extraction use existing prior to adoption of the Land Development Code (January 1, 1981) and having been continuously in operation, may continue operations and may expand up to 125% of the area currently and formerly mined on that parcel. Any sand and gravel extraction use approved by the County prior to the adoption of this Ordinance may continue operations in accordance with their final County approvals. Any new phase proposed, but not previously approved, shall comply with this Ordinance.

10.3.25. Annual Operating Plan and Monitoring Report.

10.3.25.1. An annual operating plan and monitoring report, capable of audit, shall be prepared and submitted to the Land Use Administrator by January 31st each year. The report shall summarize the operations of the previous year including number of truck trips and sizes of trucks, area mined, quantities mined, amount of area undergoing reclamation, the success of reclamation, and any violations.

10.3.25.2. For the first three years, the report shall be reviewed at a public hearing with the Board of County Commissioners. After the third year, the Board may allow the report to be reviewed administratively by the Land Use Administrator and brought to the Board when the Land Use Administrator has determined a significant change in operations has occurred, or circumstances have changed warranting reevaluation of the DCI permit.

Section 11. Application Fee.

Each application for a DCI Overlay District shall be accompanied by a nonrefundable application fee in the amount set forth in Appendix A.

Section 12 . Severability.

If any provision of this Ordinance shall be held invalid or non-enforceable by any court of competent jurisdiction for any reason, the remainder of this Ordinance shall not be affected and shall be valid and enforceable to the fullest extent of the law.

Section 13. Effective Date.

This Ordinance shall become effective thirty (30) days following recordation in the Office of the County Clerk.

PASSED, APPROVED AND ENACTED this ____ day of August, 2015, by the Board of County Commissioners of Santa Fe County.

**THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY**

By _____
ROBERT A. ANAYA, Chair

ATTEST:

GERALDINE SALAZAR, County Clerk

APPROVED AS TO FORM:

GREGORY S. SHAFFER, County Attorney

**APPENDIX A
APPLICATION FEES**

Application for a DCI Overlay Zone: \$7,500

Application for a DCI Conditional Use Permit: \$5,000

Inspection Fees:

Initial Inspection: \$500

Pre-Final inspections: \$350

Final Inspections: \$500

Courtesy inspection: \$300

DRAFT 7.01.2015

